



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI

IN THE MATTER OF SEIZURE OF  
MERCHANTS AND MARINE BANK  
ACCOUNTS X9958 AND X1525  
\_\_\_\_\_ /

**AFFIDAVIT OF HUGH FERRY**

STATE OF MISSISSIPPI       )  
  )  
COUNTY OF JACKSON       )

BEFORE ME, the undersigned authority, personally appeared **HUGH FERRY** who, having been first duly sworn, deposes and states as follows:

1. My name is Hugh Ferry. I am a resident of Jackson County, Mississippi.
2. I am over the age of 18, and I make this affidavit voluntarily and based upon my first-hand knowledge.
3. I am the Chief Executive Officer of Alvix Laboratories, LLC ("Alvix"). I am providing this affidavit in support of Alvix's Motion to Return Property Pursuant to Fed. R. Crim. P. 41(g) and Incorporated Memorandum of Law filed in the above-captioned case.
4. Alvix is the owner of Merchants and Marine Bank account no. X1525 ("Account No. x1525").
5. On May 19, 2019, this Court issued its Warrant to Seize Property Subject to Forfeiture (the "Warrant").
6. Among other things, the Warrant authorized the Government's seizure of the following property:
  - b. MERCHANTS AND MARINE BANK account number X1525, an account held in the name of ALVIX

LABORATORIES, LLC, and authorized signers: Clark J. Levi and Hugh E. Ferry. This account received monies from MERCHANTS x9958. All monies and assets in account.

Warrant at p. 2.

7. Thereafter, the Government seized the total amount of \$895,740.36 from Account No. x1525.

8. Merchants and Marine Bank account no. X9958 ("Account No. x9958") was the account into payments from The Garden's Pharmacy, LLC ("Gardens") were received.

9. With respect to all transactions between Gardens and Alvix for the past two (2) years, the total of such deposits from Account No. x9958 is \$21,412.44. In fact, in 2019 the only transaction was a payment of \$550.58.

10. All invoices between Alvix and Gardens confirm that the only transactions between those parties over the last two (2) years totaled \$21,412.44. True and correct copies of the invoices are attached as **Composite Exhibit "A"**.

11. The Warrant caused a seizure of \$895,740.36 from Account No. x1525, even though there was only \$21,412.44 in transactions between Gardens and Alvix over the past two (2) years and, more specifically, from Account No. x9958 as authorized in the Warrant.

12. Given that (a) the Warrant's only stated basis for seizure of the account was that it "received monies from Merchants x9958"; and (b) the FBI executed a search warrant on Gardens the same day, it is obvious that the seizure of the funds from Account No. x1525 was due to Gardens.

13. Specifically, the only payment in 2019 from Gardens (d/b/a "Lovelace") was a payment in the amount of \$550.58 on May 13, 2019, in reference to an invoice dated January 23,

2019. The balance of the funds seized by the Government from Account No. x1525 represent payments remitted by seven (7) of Alvix's customers having absolutely no relation to Gardens.

14. Notably, from April 16, 2019 through May 19, 2019 (the date of the Warrant's issuance), there were \$920,035.48 in funds deposited into Account No. x1525. The entirety of these deposited funds reflect payments made to Alvix by customers who have no affiliation whatsoever with Gardens.

15. Accordingly, there can be no dispute that only \$550.58 is attributable to Gardens of the total \$895,740.36 seized from Account No. x1525 by the Government.

16. In an attempt to amicably resolve this matter without this Court's intervention, in exchange for release of the improperly seized funds, Alvix very reasonably offered to set aside \$21,412.44 from the wrongfully seized monies (which is arguably the maximum amount that under any circumstances could be subject to seizure), so that the Government could hold such funds during the pendency of its investigation.

17. Even though Alvix provided the Government with more than ample opportunity to fully investigate the matter, the improperly seized funds were not released by the Government.

18. Alvix has suffered significant, ongoing financial hardship and prejudicial harm as a result of the Government's improper seizure of \$895,189.78 from Account No. x1525.

19. In particular, the improperly seized funds are needed for employee payroll. Moreover, the improperly seized funds are needed for normal operating expenses and manufacturing costs.